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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant/Counterclaim-Plaintiff.

**IBM'S EX PARTE MOTION FOR
LEAVE TO FILE OVERLENGTH SUR-
REPLY MEMORANDUM IN FURTHER
OPPOSITION TO SCO'S MOTION FOR
LEAVE TO FILE A THIRD AMENDED
COMPLAINT**

Civil No. 2:03CV0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

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U.S. DISTRICT COURT
DISTRICT OF UTAH



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Pursuant to DUCivR 7-1(e), Defendant/Counterclaim-Plaintiff International Business Machines Corporation (“IBM”) respectfully submits this Ex Parte Motion for Leave to File Overlength Sur-Reply Memorandum in Further Opposition to SCO’s Motion for Leave to File a Third Amended Complaint, consisting of approximately fourteen pages of argument, exclusive of face sheet and preliminary statement.

In support of its motion to amend, SCO submitted an overlength memorandum some twenty-five pages long. On December 29, 2004, SCO filed an overlength reply memorandum in support of its motion to amend, some eighteen pages long, in which it advanced new arguments. IBM has endeavored to address SCO’s arguments succinctly in its sur-reply memorandum, but doing so nevertheless resulted in the need for approximately fourteen pages of legal argument, four pages beyond the limit set forth in DUCivR 7-1(3).

For the foregoing reasons, IBM respectfully requests that it be granted leave to file its Sur-reply Memorandum, consisting of approximately fourteen pages of argument.

DATED this 18th day of February, 2005.

SNELL & WILMER L.L.P.



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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of February, 2005 a true and correct copy of the foregoing was sent by U.S. Mail, postage prepaid, to the following::

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